



Nevada State Board of Medical Examiners

* * * MINUTES * * *

OPEN SESSION BOARD MEETING

Held in the Conference Room at the Offices of the
Nevada State Board of Medical Examiners
1105 Terminal Way, Suite 301, Reno, Nevada 89502

and videoconferenced to

the Conference Room at the Offices of the Nevada State Board of
Medical Examiners/Nevada State Board of Dental Examiners
6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118

FRIDAY, JUNE 10, 2011 – 8:30 a.m.

Board Members Present (in Reno)

Charles N. Held, M.D., President
Benjamin J. Rodriguez, M.D., Vice President
Valerie J. Clark, BSN, RHU, LUTCF, Secretary-Treasurer
Javaid Anwar, M.D.
Beverly A. Neyland, M.D.
Theodore B. Berndt, M.D.
Michael J. Fischer, M.D.
Donna A. Ruthe
Sue Lowden

Board Members Absent

None

Staff/Others Present

Douglas C. Cooper, CMBI, Executive Director
Edward O. Cousineau, J.D., Deputy Executive Director
Lyn E. Beggs, J.D., General Counsel
Bradley O. Van Ry, J.D., Deputy General Counsel
Laurie L. Munson, Chief of Administration and Information Systems
Pamela J. Castagnola, CMBI, Interim Chief of Investigations
Lynnette L. Daniels, Chief of Licensing
Donya Jenkins, Finance Manager
Henna Rasul, J.D., Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum

- *Charles N. Held, M.D., President*

The meeting was called to order by President Charles N. Held, M.D., at 8:30 a.m.

Ms. Beggs took roll call, and all Board Members were present. Ms. Beggs announced there was a quorum.

Agenda Item 2

APPROVAL OF MINUTES

- March 11, 2011 Board Meeting – Open/Closed Sessions

Dr. Fischer moved to approve the Minutes of the March 11, 2011 Board Meeting – Open/Closed Sessions. Dr. Berndt seconded the motion, and it passed unanimously.

Agenda Item 3

PERSONNEL

- Consideration of Appointment of Pamela J. Castagnola as Chief of Investigations

- *Douglas C. Cooper, CMBI, Executive Director*

Mr. Cooper stated Ms. Castagnola had been working as the Interim Chief of Investigations and was being considered for promotion to the position of Chief of Investigations. He requested the Board go into Closed Session to allow it to discuss the competency and evaluation of Ms. Castagnola.

Dr. Rodriguez moved that the Board go into Closed Session. Ms. Clark seconded the motion, and it passed.

Upon returning to Open Session, Dr. Held stated that it was before the Board to consider promotion of Ms. Castagnola from Interim Chief of Investigations to Chief of Investigations, with an appropriate pay increase.

Dr. Fischer moved that Ms. Castagnola be appointed Chief of Investigations. Ms. Ruthe seconded the motion, and it passed unanimously.

Agenda Item 4

LEGISLATIVE UPDATE

- *Keith L. Lee, Esq., NSBME Legislative Representative; Douglas C. Cooper, CMBI,
Executive Director*

Mr. Cooper introduced Mr. Lee to the Board. He stated it had been a rough legislative session and Mr. Lee had kept the Board well informed.

Mr. Lee explained that he has been the Board's lobbyist for a number of sessions, and that this session, there was a particular focus on health care, particularly with respect to hospitals and clinics and those facilities that are licensed by the Health Division. There was a notion among a number of legislators that something had to be done with respect to how those facilities report sentinel events and how that information is made available to the public. So there were an inordinate number of bills that dealt with sentinel events, with infection, and with injection practices. Due to the budget crisis, there was some concern going into the session that those boards and commissions with substantial reserves would have that money swept into the General Fund. Not only did that not occur, but to his knowledge, it was not even discussed as a source of revenue for the General Fund. Assembly Bill 21 would have consolidated many boards, particularly medical licensing boards, into a state agency, but it was introduced and died without a hearing. Senate Bill 56 would have required that the Board put all of its computer systems into the Department of Information Technology, and was given a short hearing and then died. Senate Bill 454 would have taken from the boards and commissions the ability to select their own presidents and chairmen from all of their members and would have required the Governor to appoint one of the lay members of the board or commission to serve as such. That bill also did not pass. Mr. Lee then highlighted the changes made pursuant to Senate Bill 168, which was the Board's bill, and which was adopted with small revisions.

Discussion ensued regarding the genesis and goal of the bills related to sentinel events reporting and regarding the bills related to medical assistants and the resulting legislation contained in Senate Bill 294.

Mr. Lee explained that two other bills related to medical assistants were combined into Senate Bill 294. That bill, as adopted, provides the ability to discipline a licensee for failure to properly supervise a medical assistant, but does not address what is meant by supervision of a medical assistant. It authorizes, but does not mandate, this Board to continue the regulatory process with respect to medical assistants.

Mr. Cooper added that Senate Bill 294 ended the argument about whether medical assistants can administer dangerous drugs in a doctor's office. Medical Assistants are going to be listed as a group that can possess, administer and handle dangerous drugs under supervision of a physician.

Mr. Lee thanked the Board and staff for the assistance provided to him during the session, and the Board thanked Mr. Lee for his time and work on the Board's behalf.

Agenda Item 5

CONSIDERATION AND ACTION REGARDING PROPOSED AMENDMENT TO NEVADA ADMINISTRATIVE CODE CHAPTER 630

- Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, Amending NAC 630.505 to Update Language Related to Credentialing Bodies
- *Edward O. Cousineau, J.D., Deputy Executive Director*

Mr. Cousineau explained that at the March Board meeting, the Board had granted him authority to proceed with a regulation to revise erroneous language in NAC 630.505 relating to the approving authorities for educational programs for respiratory therapists. A workshop was held on March 29, 2011, and a public hearing was held on April 7, 2011. No public input or comment was received at either. The regulation will replace the current language naming the National Board of Respiratory Care as the approving authority for educational programs for respiratory therapists with the Commission on Accreditation of Allied Health Education Programs or its successor organization, or the Committee on Accreditation for Respiratory Care, or its successor organization, as the approving authorities.

Dr. Rodriguez moved that the Board adopt the proposed regulation. Dr. Neyland seconded the motion, and it passed unanimously.

Agenda Item 6

CONSIDERATION AND ACTION REGARDING OFFER OF A FREE SPEX EXAMINATION FOR A BOARD MEMBER

- *Douglas C. Cooper, CMBI, Executive Director*

Mr. Cooper explained that the SPEX exam has been revised and the Federation of State Medical Boards has offered to allow one of our physician Board members to take the SPEX exam for free in order to assist them in evaluating the new exam. The exam normally costs around \$1,200. The SPEX is the ten-year stopgap exam to ensure competency for those who haven't taken a national exam in ten years. It is a wonderful opportunity for one of Board members to take the exam and see how they fare. The results will not be "official" and will be confidential between the physician and the post-licensure assessment committee.

Discussion ensued regarding the format and content of the exam, the locations where the exam is given, and the time involved.

Dr. Rodriguez expressed an interest in taking the exam.

Agenda Item 7

CONSIDERATION AND ACTION REGARDING PUBLIC MEMBER INPUT CONCERNING WORDING OF QUESTIONS ON BOARD LICENSURE APPLICATIONS

- *Douglas C. Cooper, CMBI, Executive Director*

Mr. Cooper explained that the Board consistently has applicants who appear and say they didn't understand a question or misread it. These are basically the questions that ask whether they have ever been named as a defendant, ever responded as a defendant in any legal action, ever had a personal liability medical malpractice claim paid on their behalf, ever been arrested, investigated, charged, convicted, pled guilty or nolo contendere to any offense or violating a federal, state, local law, etc., ever been the subject of an investigation, etc. The

Board's current application forms cover everything the Board has learned to date are reasons why applicants say they didn't understand the questions. He has asked certain public Board members to review the questions and analyze them. He has received some feedback, but would like to table this matter until the next meeting to allow time to receive additional feedback before bringing it to the Board for a decision as to whether the questions should be revised in any way.

Agenda Item 8

CONSIDERATION AND ACTION REGARDING POTENTIAL MOU WITH LAS VEGAS RAPID DETOX MEDICAL CLINIC

- *Douglas C. Cooper, CMBI, Executive Director*

Mr. Cooper explained that the Board has existing memoranda of understanding with four providers for counseling, drug testing, and "diversion" assistance for medical professionals who have substance abuse or substance addiction problems. Dr. Thomas Yee has requested the Board consider entering into a memorandum of understanding with the facility he operates, Las Vegas Rapid Detox Medical Clinic. Mr. Cooper described the treatment process used by Las Vegas Rapid Detox Medical Clinic. The facility is partnered with Dr. Mansky, who provides the initial evaluation to determine whether someone is a candidate for rapid detoxification. If so, the candidate is referred to Dr. Yee for the rapid detoxification and follow-up treatment with medication, as well as the required drug screens. The follow-up counseling is provided by Dr. Mansky. The Board would be apprised of anyone who is sent to the program, in the same manner as it is with the other programs with whom the Board has MOUs.

Discussion ensued regarding whether it would be appropriate to enter into a MOU with Las Vegas Rapid Detox Medical Clinic. Concern was expressed by several Board members regarding the length a person is under anesthesia for the rapid detox procedure and whether requiring an individual to undergo such a process to retain their license might be considered as prescribing treatment, rather than monitoring it.

Dr. Anwar moved that the Board not enter into a MOU with the Las Vegas Rapid Detox Medical Clinic. Ms. Ruthe seconded the motion, and it passed unanimously.

Agenda Item 9

CONSIDERATION AND ACTION REGARDING WRITING OFF BAD DEBT

- *Douglas C. Cooper, CMBI, Executive Director; Donya Jenkins, Finance Manager*

Mr. Cooper stated that at the time the Board instituted its compliance program, there was outstanding debt owed to the Board that was already old. There is a list of 12 or 13 debts that could be considered to be written off, and of those, there are 4 that are deemed uncollectible.

Ms. Jenkins explained that writing off these debts would have no effect on the Board's financial statement, as they have already been recognized on the financial statement. When the auditors determined they were uncollectible, that is when they hit the Board's profit and loss and were written off in that respect. Currently, they sit on the Board's balance sheet showing as a negative number to its accounts receivable, and the Board has inquired several times about getting rid of that number on the balance sheet. The collection agency the Board uses has advised that three of the four debts are too old by law for them to attempt to collect, and none of those individuals can be found by any method available to the Board. The fourth individual is in

prison for 25 to life and his wife cannot be found. Therefore, that debt is also deemed as uncollectible.

Discussion ensued regarding whether the debt may be collectible from the individual who is prison.

Dr. Rodriguez moved that the Board strike from its balance sheet the four outstanding debts presented to it. Dr. Fischer seconded the motion, and it passed unanimously.

Agenda Item 10

ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. RALPH CONTI, M.D.*, BME CASE NO. 10-8692-1

- Henna Rasul, J.D., Deputy Attorney General

Dr. Conti was present in Las Vegas with his counsel, Stan Hunterton, Esq.

Dr. Held named the adjudicating Board members who would be considering the matter.

Ms. Ruthe recused herself from consideration of the matter.

As Dr. Held was not an adjudicating Board member for this agenda item, Dr. Rodriguez presided over the matter.

Ms. Rasul asked whether the adjudicating Board members had received the materials related to the matter, and they indicated they had. Ms. Rasul then outlined the charges against Dr. Conti.

Discussion ensued regarding the facts of the case.

Mr. Hunterton requested that Dr. Conti be allowed to be heard before the Board took a vote.

Ms. Beggs explained that pursuant to statute and regulation, the matter was submitted to the Board at the close of the hearing, and no further evidence could be accepted. Should the Board find Dr. Conti guilty of the charges, counsel could make comments with regard to disciplinary recommendations.

Mr. Hunterton stated he did not have evidence to present, but he wanted the Board to hear Dr. Conti's side of the story prior to adjudicating.

Ms. Beggs explained that Mr. Hunterton had never filed an appearance in the case. Mr. Pilkington had represented Dr. Conti at the hearing held in March, and at that time all evidence and testimony was heard and the matter was then submitted to the Board. The only thing Dr. Conti or his counsel was allowed to do at this meeting was to comment on disciplinary recommendations pursuant to NRS 630.352.

Dr. Fischer moved that the Board find Dr. Conti guilty of Count I, NRS 630.3065, in that he willfully failed to comply with a regulation, subpoena or order of the Board or a committee designated by the Board to investigate a complaint against a physician. He failed to comply with the order of the Investigative Committee served on May 12, 2010, when he failed to provide the

requested response or records. He also failed to comply with the order of the Investigative Committee served on August 4, 2010, when he failed to appear before the Investigative Committee. By reason of the foregoing, Dr. Conti is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352. Dr. Anwar seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Dr. Fischer moved that Dr. Conti received a written public reprimand for his failure to appear, that he be fined \$4,000, and that he reimburse the Board's costs incurred in the investigation within 90 days. Dr. Anwar seconded the motion.

Ms. Castagnola stated the costs incurred in the case to date were \$3,985.01.

Discussion ensued regarding the proposed discipline.

Mr. Hunterton stated that neither a public reprimand nor a fine was appropriate, but it would be appropriate for Dr. Conti to reimburse the Board's costs because the responses were tardy for reasons that had already been laid out in great detail. Dr. Conti and his counsel tried to coordinate responses to the FDA and other arms of the federal government with responses to the Board, and they obviously failed, but that didn't make it willful. He wanted to clarify for the record that all of the records and narratives the Board asked for have been in the possession of the Board for some time now. The response was tardy, but legitimate requests by the Board for information and a statement were met.

A vote was taken on the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item II

ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JOSEPH EDWARDS, M.D., BME CASE NO. 10-9751-1

- Henna Rasul, J.D., Deputy Attorney General

Dr. Edwards was present in Las Vegas with his counsel, John Pilkington, Esq.

Dr. Held named the adjudicating Board members who would be considering the matter.

Ms. Ruthe recused herself from consideration of the matter.

As Dr. Held was not an adjudicating Board member for this agenda item, Dr. Rodriguez presided over the matter.

Ms. Rasul outlined the charges against Dr. Edwards.

Dr. Rodriguez asked whether the adjudicating Board members had read the materials related to the matter, and they indicated they had.

Ms. Lowden moved that the Board find Dr. Edwards guilty of willfully failing to comply with a regulation of the Board. Dr. Anwar seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Ms. Lowden moved that Dr. Edwards receive a public reprimand, that he be fined \$4,000, and that he reimburse the Board's costs. Dr. Anwar seconded the motion.

Ms. Castagnola stated the costs incurred in the case to date were \$3,914.39.

Mr. Pilkington stated he had appeared at the proceedings before the hearing officer and would like to remind the Board of some of the matters that he brought up at that time.

Mr. Cooper stated that Mr. Pilkington could address the Board regarding his thoughts as to what discipline might be appropriate, but no other discussion by Mr. Pilkington was allowed at that time.

Mr. Pilkington stated there should be no punishment, as there was no willful action, and "willful," as in "an intent to do something wrong," is required. Therefore, there should be no punishment or finding of wrongdoing.

A vote was taken on the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Ms. Lowden moved to amend the motion regarding disciplinary sanctions to include that the fine and costs be paid within 90 days. Dr. Anwar seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 12

ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JAMES SOMERS, P.A.-C*, BME CASE NO. 10-19294-1

- Henna Rasul, J.D., Deputy Attorney General

Mr. Somers was present in Las Vegas with his counsel, Michael Phillips, Esq.

Dr. Held named the adjudicating Board members who would be considering the matter.

As Dr. Held and Dr. Rodriguez were not adjudicating Board members for this agenda item, Dr. Anwar presided over the matter.

Ms. Rasul outlined the charges against Mr. Somers.

Discussion ensued regarding the facts of the case.

Dr. Fischer moved that the Board find Mr. Somers guilty of failing to use reasonable care, skill and knowledge ordinarily used under the same or similar circumstances when he failed to refer Patient A to specialty care, failed to order an x-ray or other imaging studies of the finger in a timely manner and/or failed to consult with the supervising physician in this matter. By reason of the foregoing, he is subject to the discipline of the Nevada State Board of medical Examiners as provided in Section 630.410 of the Nevada Administrative Code. Dr. Anwar seconded the motion.

Mr. Phillips attempted to address Dr. Fischer. Ms. Beggs explained that after the hearing in the matter, the matter was closed and submitted to the Board for adjudication. The only thing the statutes allow is that counsel is entitled to make comment regarding the disciplinary

recommendations in the event the Board finds there was a violation of the Medical Practice Act,. No further testimony or argument could be made prior to the Board making their adjudication.

A vote was taken on the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Fischer moved that Mr. Somers receive a written public reprimand, that he reimburse the Board's costs incurred in the investigation and that he take five hours continuing medical education on the treatment of paronychia and osteomyelitis of the fingers, or treatment of infections of the bone, the continuing medical education to be completed, and payment of costs to be made, within 90 days.

Ms. Castagnola stated the costs incurred in the case to date were \$12,077.52.

Dr. Fischer amended his motion to allow six months for completion of the continuing medical education. Ms. Ruthe seconded the motion.

Mr. Phillips requested that Mr. Somers be allowed six months to pay the costs.

Dr. Fischer stated he would accept that as an amendment to his motion.

Mr. Phillips stated that Mr. Somers does not practice in the area that was involved at the time in 2003 and 2004 that formed the basis of this matter, so they were requesting that he not be required take continuing medical education with respect to the treatment of paronychia or osteomyelitis, as those are not areas in which he has practiced for quite a while.

Ms. Ruthe seconded the amended motion.

Mr. Van Ry suggested the Board could substitute a fine in lieu of requiring continuing medical education. Discussion ensued regarding the continuing medical education requirement.

A vote was taken on the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 13

CONSIDERATION OF STIPULATION AND SETTLEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. GEORGE LAKNER, M.D., BME CASE NO. 01-12221-1

- *Lyn E. Beggs, J.D., General Counsel*

Dr. Lakner was not present. L. Kristopher Rath, Esq. was present in Las Vegas as counsel for Dr. Lakner.

Dr. Held named the adjudicating Board members who would be considering the matter.

Ms. Beggs explained that before the Board was a two-fold document. The case was adjudicated by the Board in December 2001, and no one who was on the Board at that time is currently on the Board. Dr. Lakner subsequently filed a timely petition for judicial review, which was going through the District Court system when Dr. Lakner was sent overseas on active military duty. For a variety of procedural reasons, when Dr. Lakner returned, the case was

not reopened in the District Court, so the Petition for Judicial Review is still pending. In order to resolve the matter, Ms. Beggs and Mr. Rath, on behalf of Dr. Lakner, had come to a reasonable resolution of the matter, which would set aside the previous Findings of Fact, Conclusions of Law from the adjudication in December 2001, and the proposed settlement agreement would go in effect to settle the matter. As part of that settlement agreement, Dr. Lakner would dismiss his Petition for Judicial Review.

Dr. Held moved that the Board accept and adopt the Stipulation and Settlement, Waiver and Consent Agreement. Dr. Neyland seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 14

CONSIDERATION OF APPROVAL OF AMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER IN THE MATTER OF *THE NEVADA STATE
BOARD OF MEDICAL EXAMINERS VS. NAVNEET SHARDA, M.D.*,
BME CASE NO. 08-11856-1

- *Lyn E. Beggs, J.D., General Counsel*

Dr. Sharda was not present.

Ms. Beggs stated that this was a matter that was previously adjudicated by the Board, and a Petition for Judicial Review was subsequently filed by Dr. Sharda in the Eighth Judicial District Court. The Order from the Eighth Judicial District Court upheld one of the findings of the Board, but overturned the other. Therefore, the Board has to amend its Findings of Fact, Conclusions of Law and Order to comport with the District Court Order.

Dr. Held moved that the Board amend the Findings of Fact, Conclusions of Law and Order as stated by the Court. Dr. Rodriguez seconded the motion, and it passed unanimously.

Agenda Item 15

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. FRANK VICTOR RUECKL,
JR., M.D.*, BME CASE NO. 11-6386-1

- *Edward O. Cousineau, J.D., Deputy Executive Director*

Dr. Rueckl was not present.

Dr. Held named the adjudicating Board members who would be considering the matter.

As Dr. Held and Dr. Rodriguez were not adjudicating Board members for this agenda item, Dr. Anwar presided over the matter.

Mr. Cousineau outlined the allegations contained in the Complaint filed against Dr. Rueckl and the terms of the proposed settlement agreement.

Dr. Fischer moved that the Board adopt the settlement. Dr. Anwar seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 16

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. CLIFFORD CARROL, M.D.*, BME CASE NO. 10-11702-1

- Lyn E. Beggs, J.D., General Counsel

Dr. Carrol was not present. Sherman Mayor, Esq. was present in Las Vegas as counsel for Dr. Carrol.

Dr. Held named the adjudicating Board members who would be considering the matter.

As Dr. Held and Dr. Rodriguez were not adjudicating Board members for this agenda item, Dr. Anwar presided over the matter.

Ms. Beggs outlined the allegations contained in the Complaint filed against Dr. Carrol and the terms of the proposed settlement agreement.

Ms. Ruthe moved that the Board accept the settlement agreement. Dr. Neyland seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 17

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MICHAEL KAPLAN, M.D.*, BME CASE NO. 11-8547-1

- Lyn E. Beggs, J.D., General Counsel

This item was not discussed at the meeting.

Agenda Item 18

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. TUDOR C. JIANU, M.D.*, BME CASE NO. 11-11846-1

- Lyn E. Beggs, J.D., General Counsel

Dr. Jianu was not present. L. Kristopher Rath, Esq., was present in Las Vegas as counsel for Dr. Jianu.

Dr. Held named the adjudicating Board members who would be considering the matter.

As Dr. Held was not an adjudicating Board member for this agenda item, Dr. Rodriguez presided over the matter.

Ms. Beggs outlined the allegations contained in the Complaint filed against Dr. Jianu and the terms of the proposed settlement agreement.

Dr. Anwar moved that the Board accept the settlement agreement. Ms. Ruthe seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 19

CONSIDERATION OF ACCEPTANCE OF VOLUNTARY SURRENDER OF MEDICAL
LICENSE OF ARTHUR WYATT, JR., M.D., LICENSE #1757

- *Lyn E. Beggs, J.D., General Counsel*

Dr. Wyatt was not present.

Dr. Held named the adjudicating Board members who would be considering the matter.

As Dr. Held was not an adjudicating Board member for this agenda item, Dr. Rodriguez presided over the matter.

Ms. Beggs stated this was a voluntary surrender of license that the Board would have to ratify before it would become effective. She explained that Dr. Wyatt had complied with the regulation regarding voluntary surrender of a license, in that he had provided his wallet card as well as an affidavit stating that he wished to surrender the license and acknowledging that it would be reportable to the National Practitioner Data Bank as the surrender would be deemed to have occurred while under investigation. She asked that the Board accept the voluntary surrender.

Ms. Neyland moved that the Board accept the voluntary surrender of license of Dr. Wyatt. Dr. Anwar seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 20

CONSIDERATION OF REMEDIATION AGREEMENT IN THE MATTER OF BOARD
LICENSEE 24258

- *Edward O. Cousineau, J.D., Deputy Executive Director*

Mr. Cousineau explained that in 2009, the Legislature approved new language under NRS 630.299 which authorized the Board to enter into remediation agreements with its licensees. Remediation agreements allow for a non-reportable way the Board can remediate either previously violative conduct or potentially violative conduct under the Medical Practice Act. Under the statute, the licensee's identity is to remain anonymous. He then described the terms of the proposed remediation agreement. The language in the statute providing for remediation agreements will sunset on June 30, 2011, and was not renewed by the Legislature during this legislative session. Therefore, the two remediation agreements before the Board for consideration at this meeting will most likely be the only two the Board will ever see.

Dr. Held named the adjudicating Board members who would be considering the matter.

As Dr. Held and Dr. Rodriguez were not adjudicating Board members for this agenda item, Dr. Anwar presided over the matter.

Dr. Anwar moved that the Board accept the remediation agreement. Dr. Fischer seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 21

CONSIDERATION OF REMEDIATION AGREEMENT IN THE MATTER OF BOARD LICENSEE 14819

- *Edward O. Cousineau, J.D., Deputy Executive Director*

Dr. Held named the adjudicating Board members who would be considering the matter.

As Dr. Held and Dr. Rodriguez were not adjudicating Board members for this agenda item, Dr. Anwar presided over the matter.

Mr. Cousineau described the terms of the proposed remediation agreement.

Dr. Neyland moved that the Board accept the remediation agreement. Dr. Fischer seconded the motion, and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 22

REPORTS

- Physician Assistant Advisory Committee - *John B. Lanzillotta, P.A.-C, Advisory Committee Member*
- Investigative Committees
 - Consideration of Cases Recommended for Closure by the Committees
 - *Charles N. Held, M.D., President, Chairman, Investigative Committee A;*
 - *Benjamin J. Rodriguez, M.D., Vice President, Chairman, Investigative Committee B*
- Investigations Division
 - Status of Investigative Caseload
 - Quarterly Compliance Report
 - *Pamela J. Castagnola, Interim Chief of Investigations*
- Nevada State Medical Association Report - *Lawrence P. Matheis, Executive Director, Nevada State Medical Association; Michael J. Fischer, M.D., Board Member*
- Clark County Medical Society Report - *Mitchell D. Forman, D.O., FACR, FACOI, FACP, President, Clark County Medical Society; Benjamin J. Rodriguez, M.D., Board Vice President*
- Informational Briefing on USMLE Workshop, April 2011 - *Beverly A. Neyland, M.D., Board Member; Michael J. Fischer, M.D., Board Member*

Physician Assistant Advisory Committee

John Lanzillotta, P.A.-C, stated that Mr. Cooper, Mr. Cousineau and he had previously discussed the Advisory Committee's request to the Board that it consider statutory language to include physician assistants as providers of certain medical services. Through that conversation, it was determined that what the Advisory Committee is requesting may have broader implications than originally anticipated as far as the impact it may have on the practice of medicine in Nevada. Mr. Cooper and Mr. Cousineau requested that an exploratory committee be created to research the matter for possible legislation during the next legislative session. It was suggested that a Board member be a member of that committee. Therefore, the Advisory Committee will make a request to the Board at its September meeting that a Board member be appointed to work with the exploratory committee on this issue.

Investigative Committees

- Consideration of Cases Recommended for Closure by the Committees

Dr. Held reported that Investigative Committee A had met and considered 108 cases, authorized the filing of a formal complaint in 12 cases, sent 2 cases out for peer review, requested an appearance in 9 cases, issued 20 letters of concern, referred 1 case back to investigative staff for further investigation or follow-up, and recommended closure of 64 cases, for a total of 84 closures, including the cases in which letters of concern were issued.

Dr. Rodriguez reported that Investigative Committee B had met and considered 85 cases, authorized the filing of a formal complaint in 3 cases; sent 2 cases out for peer review, requested an appearance in 5 cases, issued 20 letters of concern, referred 2 cases back to investigative staff for further investigation or follow-up, and recommended closure of 53 cases, for a total of 73 closures, including the cases in which letters of concern were issued.

Dr. Fischer moved to approve for closure the cases recommended by the Investigative Committees.

Discussion ensued regarding how the determination is made as to which Investigative Committee a case is assigned.

Ms. Clark seconded the motion, and it passed unanimously.

Investigations Division

- Status of Investigative Caseload

Ms. Castagnola reported that there were currently 451 open investigative cases, which was an increase from 404 open cases as of the March 11, 2011 Board meeting. The current number of cases per investigator was 76 on average. There were 27 peer reviews in the field and 3 peer reviews awaiting assignment.

Discussion ensued regarding how this average number of cases compares to those of other medical boards.

Ms. Castagnola stated she recently assigned the remainder of the 2010 Clark County court cases to the investigators, which is probably accounting for the increase in the case load, and they are now into the 2011 cases, so they are rapidly getting caught up.

- Quarterly Compliance Report

Ms. Castagnola asked whether any Board members had questions regarding the Quarterly Compliance Report, which had been provided to them in written form, and there were none.

Dr. Rodriguez moved to accept the Quarterly Compliance Report. Ms. Ruthe seconded the motion, and it passed unanimously.

Nevada State Medical Association Report

Lawrence P. Matheis, Executive Director of the Nevada State Medical Association (NSMA), thanked Dr. Held for his service to the Board and to the state. At the NSMA Annual Meeting, in addition to many other things, they had a full session on safe injection practices, as well as an ethics CME program on the use of opioids. He stated that Keith Lee represented the Board very well at the Legislature. The dynamic during the session was not a friendly one for the health care system, the practice of medicine or for health care providers, due to, he believes, the accumulation of legitimate concerns regarding prescription drug abuse, quality and patient safety issues, injection infections, etc. A lot of the new legislation has to do with reporting and placing information on state websites. There were a lot of bills dealing with prescribing issues and injection practices. There was an attempt to weaken the liability law, which was defeated. Assembly Bill 98 passed, which provides protection for training for disaster preparedness. Legislation was passed which clarified the medical assistant issue.

Dr. Fischer, Board liaison to the NSMA, stated he had nothing to add.

Clark County Medical Society Report

Debbie Trent, Executive Director of the Clark County Medical Society (CCMS), reported that the CCMS is having its installation of Dr. Baron as President on June 25, that they have a strategic planning session scheduled for August 20, and that they are in the process of searching for a new Executive Director, as she will be relocating to Denver at the end of August.

Dr. Rodriguez, Board liaison to the CCMS, stated he had nothing to add.

Informational Briefing on USMLE Workshop, April 2011

Dr. Neyland described the workshop. She said it was interesting to learn about the process of creating the questions for the USMLE, and then described the process. She expressed to them an interest in creating questions for the examination and they are going to add her name to the database.

Dr. Fischer added that they were able to observe the test being administered, that the USMLE organization is doing everything possible to ensure that the test is fair and standardized, and the workshop was very worthwhile.

Agenda Item 23

EXECUTIVE STAFF/STAFF REPORTS

- Report on Status of Processing 2011-2013 Biennial Licensure Registration Renewals
 - *Lynnette L. Daniels, Chief of Licensing*
- Consideration and Approval of 2010 Board Annual Report - *Douglas C. Cooper, CMBI, Executive Director*
- Consideration of Request for Staff Attendance at Educational Meetings
 - *Douglas C. Cooper, CMBI, Executive Director*
- Quarterly Update on Finances - *Donya Jenkins, Finance Manager*
- Update Regarding VeriDoc License Verifications - *Douglas C. Cooper, CMBI, Executive Director; Lynnette L. Daniels, Chief of Licensing*

- Update Regarding Creation of Perfusionist Advisory Committee - *Douglas C. Cooper, CMBI, Executive Director*
- Update Regarding Adjudication Process Training for Board Members - *Lyn E. Beggs, J.D. General Counsel*
- Informational Items - *Douglas C. Cooper, CMBI, Executive Director*

Report on Status of Processing 2011-2013 Biennial Licensure Registration Renewals

Ms. Daniels reported that the Board began its 2011-2013 biennial licensure renewals on April 4th. As of the morning of the meeting, 5,752 of the approximately 9500 licensees of the Board had renewed, 5,562 online and 190 on paper, leaving 3,783 who had not yet renewed.

Consideration and Approval of 2010 Board Annual Report

Mr. Cooper described the contents of the Board's 2010 Annual Report, and highlighted the changes made to the format from the 2009 Report. He explained that prior to the beginning of the legislative session, he had sent copies of the AIM Assessment to the legislators, the Legislative Counsel Bureau and the Governor's Office with a letter asking them to accept the assessment and the Board's financial audit in lieu of the statutory 10-year audit which will be due this year. To date, he has not received a response, and will send follow-up correspondence.

Discussion ensued regarding the population to in-state active physician statistics.

Dr. Rodriguez moved to approve the 2010 Board Annual Report. Dr. Neyland seconded the motion, and it passed unanimously.

Consideration of Request for Staff Attendance at Educational Meetings

Dr. Held asked whether any Board members had questions or issues regarding any of the requests for staff training, and there were none.

Dr. Rodriguez moved that the Board approve the requests for training. Dr. Neyland seconded the motion, and it passed unanimously.

Quarterly Update on Finances

Ms. Jenkins highlighted the information contained in the financial documents provided to the Board for the first quarter of 2011. She stated the two most important numbers on the Balance Sheet are the total current assets and total current liabilities, and the Board's current assets are more than its current liabilities. She explained that because the Board renews licenses every two years, those funds must extend over the two-year period, and therefore, the Board needs to ensure that it is holding more current assets than projected expenditures for the two-year period. She then highlighted the various sections of the Profit and Loss Budget vs. Actual, which shows the Board's income and expenses. Overall, the Board was under budget for the quarter.

Ms. Jenkins explained that the Board's outside auditors were scheduled to begin the annual audit at the beginning of the following week, so the audit would be on the agenda for discussion at the next Board meeting.

Discussion ensued regarding the areas from where the Board realized the largest savings in operating expenses.

Dr. Anwar moved to accept the report. Dr. Rodriguez seconded the motion, and it passed unanimously.

Update Regarding VeriDoc License Verifications

Ms. Daniels explained that VeriDoc had sent the Board a standard contract, and Mr. Cooper and senior staff reviewed it and sent VeriDoc proposed revisions. They have agreed to make the requested changes and we are awaiting receipt of the final version. We foresee that we will be under contract with them in the near term.

Mr. Cooper highlighted the major revisions staff requested be made to the original draft.

Update Regarding Creation of Perfusionist Advisory Committee

Mr. Cooper advised the Board that the Executive Committee had appointed the following three applicants to the Perfusionist Advisory Committee: Richard Berryessa from Las Vegas, Stephen McDowell from Carson City and Robert Twells from Henderson.

Update Regarding Adjudication Process Training for Board Members

Ms. Beggs explained that all current Board members, with the exception of Dr. Rodriguez, Ms. Lowden, Dr. Held and Dr. Anwar, have gone through the training. Dr. Anwar and Dr. Held were not included in the training, as this is their last meeting. She will meet with Dr. Rodriguez and Ms. Lowden sometime in the near future, most likely after the two new Board Members have been appointed to the Board.

Informational Items

Mr. Cooper stated he would provide to the Board members, via email, a schematic and a total breakdown of all legislative bills that affect the Board in any way.

Agenda Item 24

LEGAL REPORTS

- Board Litigation Status

- *Lyn E. Beggs, J.D., General Counsel*

Ms. Beggs reported there were 94 open cases in the Legal Division, 12 of which were presented to the Board at this meeting. There were 10 cases in the CMT process, 1 case pending legal review, 18 cases awaiting the filing of a formal complaint, 47 cases in which a formal complaint had been filed that were pending, with hearings set into January 2012. Two petitions for judicial review were pending and three civil court matters were pending, one in the Ninth Circuit and three that were either already in, or on their way to, the Nevada Supreme Court.

Agenda Item 25

LICENSURE RATIFICATION

- Ratification of Licenses Issued, and Reinstatements of Licensure and Changes of Licensure Status Approved Since the March 11, 2011 Board Meeting

Dr. Rodriguez moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the March 11, 2011 Board Meeting. Dr. Anwar seconded the motion, and it passed unanimously.

Agenda Item 26

CONSIDERATION OF REQUEST OF DALE MERICLE, M.D. FOR REMOVAL OF CONDITIONS ON HIS MEDICAL LICENSE

Dr. Mericle stated he was requesting removal of the condition on his license that he have a chaperone in the room when seeing female patients, as it was causing him problems in finding work.

Ms. Clark asked Dr. Mericle how many attempts he had made to find work, and Dr. Mericle indicated five or six, as well as others he turned down.

Dr. Berndt stated that the condition on Dr. Mericle protects him as well as protecting the public, and asked how the Board could be assured that Dr. Mericle would have a chaperone in the room if the condition was removed. Dr. Mericle stated the Board would have no assurance, and it had none now.

Mr. Cooper stated that having that condition on his license is how the Board does its job of protecting the public, and Dr. Mericle had accepted the condition at the time the Board granted him a license.

Ms. Ruthe moved to deny Dr. Mericle's request for removal of any conditions on his license. Ms. Clark seconded the motion, and it passed unanimously.

Agenda Item 27

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

27(a) Jill Cohen, M.D.

Dr. Held asked Dr. Cohen whether she wanted her application to be considered in closed session, with the public being excluded, and she said that she did not.

Dr. Rodriguez questioned Dr. Cohen regarding the fact that she hasn't practiced clinical medicine since November 2009, and asked what she had been doing to keep current in medicine.

Dr. Cohen explained that she had practiced medicine in Tucson, Arizona, from 1998 until November 2009. During that time, she started a dermatopathology laboratory. She subsequently sold the business and the contract contained a non-compete clause which required that she not practice in Arizona for two years. She has been teaching residents at the University of Arizona for the last several months.

Dr. Rodriguez moved that the Board exercise its discretion to grant Dr. Cohen a license by endorsement. Dr. Anwar seconded the motion, and it passed unanimously.

27(b) Jeremy Bearfield, M.D.

David Fiore, Family Residency Director, and Karen Selbach, Family Residency Coordinator, appeared with Dr. Bearfield.

Dr. Held asked Dr. Bearfield whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did.

Dr. Held moved that the Board go into Closed Session. Dr. Rodriguez seconded the motion, and it passed.

Upon returning to Open Session, Dr. Held moved that the Board memorialize in an Order from the Board that Dr. Bearfield be granted a license contingent upon completion of his family practice residency and satisfactory completion of three years of his contract with Dr. Mansky, and at the end of three years, he can re-present to the Board for reconsideration. Dr. Berndt seconded the motion.

Dr. Fiore asked for clarification that the motion does not require that Dr. Bearfield must graduate in three years/36 months. They anticipate he will, but he doesn't want the residency program to have any extra pressure on it, as occasionally there are interruptions for illness, etc.

Dr. Held re-stated his motion as follows: That Dr. Bearfield be granted his license and that at the end of his residency, he has the capability to re-present to the Board for consideration of his contract with Dr. Mansky, and that this be memorialized as an order from the Board. Mr. Cousineau added that the motion included that the license would be granted contingent upon compliance with the terms of the contract with Dr. Mansky.

A vote was taken on the motion, and it passed unanimously.

27(c) Christopher Buckley, C.R.T.

Dr. Held asked Mr. Buckley whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Ms. Ruthe questioned Mr. Buckley concerning his affirmative response to Question 13 on his application for licensure.

Mr. Buckley explained the circumstances surrounding his eight arrests in 1998, 2000, 2001, 2002 and 2009.

Dr. Anwar asked Mr. Buckley if he felt he had a problem with alcohol, and Mr. Buckley said that he did. Dr. Anwar asked Mr. Buckley what he was doing about the problem, and Mr. Buckley stated he began participating in the PRN program in November 2010, and had signed a five-year contract with the program. He has abstained from alcohol since October 29, 2010.

Ms. Clark asked why Mr. Buckley wanted to be a respiratory therapist, and he explained his reasons.

Dr. Rodriguez moved that the Board grant Mr. Buckley's application for licensure, contingent upon his continued participation in the PRN program and that it be memorialized as an Order of the Board. Dr. Fischer seconded the motion, and it passed unanimously.

27(d) Fikre Mengistu, M.D.

Dr. Held asked Dr. Mengistu whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did.

Dr. Fischer moved that the Board go into Closed Session. Ms. Ruthe seconded the motion, and it passed.

Upon returning to Open Session, Dr. Held moved that the Board grant Dr. Mengistu's application for limited licensure. Dr. Neyland seconded the motion, and it passed unanimously.

27(e) Roger Ramesh Mehta, M.D.

Dr. Held asked Dr. Mehta whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did.

Dr. Rodriguez moved that the Board go into Closed Session. Ms. Ruthe seconded the motion, and it passed.

Upon returning to Open Session, Dr. Rodriguez moved that the Board grant Dr. Mehta's application for licensure. Dr. Berndt seconded the motion, and it passed unanimously.

Dr. Rodriguez amended his motion as follows: That the Board grant Dr. Mehta's application for licensure contingent upon completion of his residency program. Ms. Clark seconded the amended motion, and it passed unanimously.

27(f) Kent Swaine, M.D.

Dr. Held asked Dr. Swaine whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Dr. Fischer asked Dr. Swaine regarding his current work status and his plan for re-entry to clinical practice.

Dr. Swaine advised the Board that Lawrence Preston, Chief Operations Officer for the Diagnostic Center of Medicine, the practice he was proposing as his preceptor, was present in Las Vegas.

Dr. Swaine described his current employment and outlined his proposed preceptorship and plan for re-entry to clinical practice. He has been seeing Dr. Mansky a couple of times a week and attends the required meetings pursuant to his contract with NAPF.

Dr. Held asked Mr. Preston if it would be a problem for Dr. Swaine to hold a license that restricted him from prescribing controlled substances. Mr. Preston stated it could be problematic so their proposal was that any controlled substance ordered by him would be countersigned by one of the other doctors in the practice for the first 12 months, and if no adverse findings were made by the Board of Pharmacy during that time, they would want to lift the requirement, but if this Board required that restriction for the full three years of their employment agreement with Dr. Swaine, they would do so. Dr. Swaine stated he had no problem with that requirement.

Mr. Preston added that his practice had a very sophisticated electronic health record system so almost any action Dr. Swaine takes will be noted in the chart, providing oversight there as well.

Dr. Held stated that if Dr. Swaine still held a Nevada license, he would still be under probation under the terms of the settlement agreement he had entered into with the Board in 2008, and asked if Dr. Swaine would have any problem continuing with the requirements of that previous probation for as long as he was under contract with the NAPF. Dr. Swaine stated he did not.

Ms. Beggs stated that those requirements could be incorporated as conditions on the license rather than reinstating the probation.

Dr. Berndt asked Dr. Swaine what he would be doing while working for Diagnostic Center of Medicine, and Dr. Swaine stated he would be practicing family practice.

Mr. Cooper asked how the Board could verify the controlled substance prescriptions prescribed by Dr. Swaine. Mr. Preston explained that they could number the prescription pads assigned to Dr. Swaine.

Dr. Held moved that the Board grant Dr. Swaine's application for licensure and that a Board Order be issued that all controlled substance prescriptions, all schedules, be cosigned by a physician at the Diagnostic Center of Medicine during the three-year period of time, that Dr. Swaine continue his relationship with the NPAP and that the previous requirements of probation be applied as conditions on the license.

Ms. Beggs suggested that Dr. Held amend his motion to state "all terms that are outstanding," because some terms of that probation had already been met, and to change "continue his relationship with the NPAP" to "remain in compliance with and complete his contract with the NPAP program." Dr. Held accepted the proposed amendments. Dr. Fischer seconded the amended motion, and it passed, with Ms. Ruthe abstaining from the vote, and all other Board Members voting in favor of the motion.

27(g) Efren Casanova, M.D.

Dr. Held asked Dr. Casanova whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Dr. Anwar questioned Dr. Casanova regarding the fact that he was not Board Certified. Dr. Casanova explained that he had not sat for the Board Certification examination because he had not had the time to prepare for the examination due to other commitments.

Dr. Anwar asked Dr. Casanova how he could demonstrate his competency to practice medicine to the Board since he had not passed a major examination in the last ten years. Dr. Casanova said he had been practicing medicine in Arizona, approximately 70% in hospitals, 10% out-patient and 20 % in nursing homes, and for the last four years, he had been training medical students from two medical schools.

Dr. Rodriguez suggested it would be appropriate for Dr. Casanova take an examination, such as the SPEX examination, to provide the Board with a measure of his competency to practice medicine.

Dr. Rodriguez moved that the Board not exercise its discretion to grant Dr. Casanova a license by endorsement. Dr. Fischer seconded the motion, and it passed unanimously.

Dr. Rodriguez moved that the Board grant Dr. Casanova a license contingent upon his passage of the SPEX examination. Dr. Anwar seconded the motion, and it passed unanimously.

Agenda Item 28

MATTERS FOR FUTURE AGENDA

Mr. Cooper advised that the following items would be included on the agenda of a future Board meeting: the 2010 annual audit, an update on the Physician Assistant Advisory Committee's request to support legislative changes with respect to their practice, and the first round of legislative initiatives for the 2013 session.

Agenda Item 29

ELECTION OF OFFICERS AND APPOINTMENT OF COMMITTEE MEMBERS

Copies of the job descriptions for the President, Vice President and Secretary-Treasurer of the Board were distributed to all Board members.

Dr. Held explained that as President, he was in contact with the Executive Director three to five times a week.

Dr. Held opened the nominations for President for 2011-2012.

Dr. Fischer nominated Dr. Rodriguez as President. Ms. Ruthe seconded the nomination.

As no additional nominations were received, Dr. Held closed the nominations for President.

Discussion ensued regarding when Dr. Rodriguez's term should begin, and the consensus was that it should begin on July 1, 2011. A vote was taken on the nomination of Dr. Rodriguez as President, effective July 1, 2011, and it passed unanimously.

Dr. Held opened the nominations for Vice President.

Dr. Held nominated Dr. Berndt as Vice President. Dr. Fischer seconded the nomination.

As no additional nominations were received, Dr. Held closed the nominations for Vice President.

A vote was taken on the nomination of Dr. Berndt as Vice President, and it passed, with Dr. Berndt abstaining from the vote and all other Board members voting in favor of the nomination.

Dr. Held opened the nominations for Secretary-Treasurer.

Dr. Rodriguez nominated Ms. Clark as Secretary-Treasurer. Ms. Ruthe seconded the nomination.

As no additional nominations were received, Dr. Held closed the nominations for Secretary-Treasurer.

A vote was taken on the nomination of Ms. Clark as Secretary-Treasurer, and it passed unanimously.

Mr. Cooper stated that he would discuss committee appointments with Dr. Rodriguez at a later date.

Agenda Item 30
PUBLIC COMMENT

Dr. Held asked whether there were any members of the public present who would like to make a public comment, and there were none.

ADJOURNMENT

Dr. Fischer moved to adjourn the meeting. Dr. Anwar seconded the motion, and Dr. Held adjourned the meeting at 2:05 p.m.

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